

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-051267

03/07/2014

HONORABLE MICHAEL D. GORDON

CLERK OF THE COURT
K. Hartley
Deputy

BESEDER INC, et al.

ROIE MENASHE BAR

v.

GLEN LERNER, et al.

JOSEPH E ANTHONY II

JURY TRIAL SET
ORAL ARGUMENT SET (Motions In Limine)
PRETRIAL MANAGEMENT CONFERENCE SET

Courtroom 108-NE

8:17 a.m. This is the time set for a Telephonic Status Conference for the purpose of setting this matter for trial. All parties appear telephonically. Appearing on behalf of the Plaintiffs is counsel, Roie Bar. Appearing on behalf of the Defendants is counsel, Joseph Anthony.

A record of the proceedings is made by CD/videotape in lieu of a court reporter.

Court and counsel discuss the status of the case and scheduling matters.

IT IS ORDERED:

1. TRIAL

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-051267

03/07/2014

This matter is set for a Jury Trial on the following days: **October 27-30, 2014 (with the case going to the jury for deliberations by 3:00 p.m. on October 30, 2014.)**

THIS IS A FIRM TRIAL SETTING. If counsel have any pre-existing conflicts with said trial date, they shall notify the Court, in writing, within five (5) days from today's date.

Trial hours are as follows: from 9:00 a.m. to 4:30 p.m., **with the exception that the first day of trial begins at 8:30 a.m.** The Court will take two 15-minute recesses, one in the morning and one in the afternoon. The lunch recess will be from 12:00 p.m. to 1:30 p.m.

2. MOTIONS IN LIMINE

Any and all motions *in limine* shall be filed no later than **August 29, 2014** and shall be hand-delivered to opposing counsel. Such motions must meet the test of *State v. Superior Court*, 108 Ariz. 396, 397, 499 P.2d 152 (1972) ("The primary purpose of a motion *in limine* is to avoid disclosing to the jury prejudicial matters which may compel a mistrial"). *See also*, Ariz. R. Evid. Rule 103(c). Written responses to motions *in limine* shall be filed no later than **September 4, 2014** and hand-delivered to opposing counsel. Replies shall not be allowed absent leave of Court. **Prior to filing a motion *in limine*, the parties must meet and confer in accordance with Ariz.R.Civ.P. Rule 7.2(a) to attempt to resolve issues to be raised by such motion, and any motion *in limine* must include a certification that they have done so.** Failure to meet and confer prior to the filing of a motion *in limine* may result in sanctions.

Unless prior written leave of Court is obtained for good cause shown, no party may file more than three (3) motions *in limine*, including all subparts. The parties shall not file motions denominated as "*in limine*" that are, in substance, late-filed motions for summary judgment.

3. JURY SELECTION

The Court uses the "struck" method for jury selection. The parties will be permitted to conduct their own *voir dire* after the Court completes its *voir dire*. The purpose of *voir dire* is to secure a fair and impartial jury and not to educate the jury as to the legal/factual theories espoused by a particular party.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-051267

03/07/2014

4. PRETRIAL MANAGEMENT CONFERENCE and ORAL ARGUMENT

A Pretrial Management Conference and Oral Argument Re: Motions In Limine are set on **October 10, 2014 at 9:00 a.m. (90 minutes allotted)** before Judge Michael D. Gordon. The lead trial counsel for each party is required to attend the Pretrial Management Conference. Self-represented litigants are also required to attend. Except as stated above, parties are not required to attend. Failure of any trial counsel or any self-represented litigant to attend the Pretrial Management Conference may result in sanctions.

At the Pretrial Management Conference, counsel for each party and any self-represented litigants shall be prepared to discuss:

- A. Length of *voir dire*, opening statements, examination of witnesses, and closing arguments.
- B. The number of jurors on the jury panel, and the involvement of alternate jurors in deliberation.
- C. Stipulations and objections regarding witnesses and exhibits.
- D. Preliminary and final jury instructions, juror notebooks and verdict forms.
- E. Agreed-upon deposition summaries and excerpts from deposition transcripts and/or videotaped depositions.
- F. Any special witness scheduling, interpreter or equipment-related issues.
- G. A brief summary of the case to be read to the jury.
- H. The allocation of trial time per party.
- I. Status of settlement efforts.

5. MARKING EXHIBITS FOR TRIAL

Trial counsel and self-represented litigants (“the parties”) are directed to personally meet **no later than September 26, 2014** to exchange trial exhibits and discuss the exhibits prior to submitting them to the Court for trial. At this meeting,

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-051267

03/07/2014

the parties' shall attempt to agree on authenticity, foundation, and admission of the exhibits to shorten the time spent on exhibits during the trial.

At the time of the Pretrial Management Conference, the parties shall present to the Courtroom Clerk all exhibits they will be introducing at trial. Counsel shall present all exhibits with a written list of brief exhibit descriptions to the Clerk. Each exhibit shall be clipped or bound (NO RUBBER BANDS), if too large to be stapled. Exhibits are to be separated by a colored sheet of paper or by a tabbed-divider sheet. **If a party is submitting more than 100 exhibits, that party shall submit their exhibits in three-ring, tabbed binders.** If counsel are submitting large charts, blow-ups or maps, an 8-1/2 x 11 size copy of same shall be included, which can be marked as the exhibit, and can go into the jury if in evidence. The blow-ups, charts and/or maps can be used for demonstrative purposes but will not be marked as exhibits and will be returned to counsel. The exhibits will be marked by the Clerk in consecutive order: Plaintiff's exhibits will be marked first; Defendant's exhibits will be marked second. Exhibits are assigned numbers in a serial fashion. Placeholders will not be accepted and exhibit numbers will not be reserved for exhibits not presented at this time. The parties shall ensure that there are no duplicate exhibits. Failure to follow the procedure for submitting trial exhibits may result in the exclusion of that party's exhibits at trial. **On the first day of trial, each party shall submit an additional courtesy copy of their exhibits, in a three-ring, tabbed binder(s), for use by the Judge during the trial.**

NOTE: Counsel shall advise the clerk, by signed stipulation or on the record, which exhibits may be marked directly into evidence. Original depositions shall be provided to the clerk prior to trial. Please note depositions are not marked as exhibits but are retained by the clerk for record purposes. The depositions will be available to counsel and the Court during the trial.

NOTE: Counsel are advised that if they intend to use laptop computers and/or the Court's document camera during trial, they should make an appointment to meet with FTR personnel (602-372-7876) at least one week in advance of trial to ensure compatibility of their equipment and obtain answers to technical questions.

6. WITNESS INFORMATION FORM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-051267

03/07/2014

Counsel for each party and any self-represented litigant shall meet **no later than September 26, 2014** to complete the Witness Information Form attached to this minute entry. The parties shall set forth the name of each witness and the estimated time required for direct and cross-examination. Time estimates also shall be set forth for opening statements and closing arguments. The completed form shall be submitted with the Joint Pretrial Statement. The Court will rely upon the Witness Information Form to predict the length of the trial for the jurors and to allocate the time allowed for each party to present its case to the jury.

Attachment: Witness Information Form.

7. FINAL JOINT PRETRIAL STATEMENT

The Joint Pretrial Statement meeting the requirements of Ariz.R.Civ.P. Rule 16(d) shall be delivered to the Court by 5:00 p.m. on **September 26, 2014**. The following shall be filed with the Joint Pretrial Statement and copies provided to this Division:

- A. A statement by each party identifying all expert witnesses, the opinions of said experts, and a description of the factual/substantive basis for each such opinion.
- B. A stipulated brief summary of the case, which the Court can read at the outset of *voir dire*.
- C. A list of all exhibits containing a brief description of each exhibit, as well as the objections, if any, to such exhibits and the reasons for such objection. **Any objections not so included are waived.**
- D. A CD containing the full text of all preliminary and final jury instructions jointly agreed upon by the parties in Word format.
- E. CDs containing separate sets of requested instructions that have not been agreed upon in Word format. (Please consider *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993) and the RAJI Civil 4th Statement of Purpose and Approach before preparing any request for non-RAJI instructions.). Non-RAJI instructions should be numbered consecutively, one per page, with a heading (*e.g.*, Plaintiff's Instruction No. 1, etc.) and authority for the instruction.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-051267

03/07/2014

- F. Written objections to any jury instructions citing specific authority in support of said objections.
- G. A list, by page and line numbers, of all deposition or other transcribed testimony that may be offered at trial, other than for impeachment, including designations of testimony that a party believes ought in fairness to be introduced pursuant to Rule 32(a) with testimony to be offered by an opponent. The Court shall also be provided with copies of those parts of any such testimony to which objection is made, indicating the testimony objected to and the reasons for such objection. **Any objection not so included is waived.** Since jurors generally prefer narrative summaries, with brief excerpts of questions and answers, to reading many pages of testimony, the parties shall confer as to whether agreed upon summaries can be prepared. The parties shall lodge a form of Order (in spreadsheet format) setting forth the designations, objections thereto, and blank spaces for rulings. The form of Order shall be electronically lodged (in Word) seven days prior to the Final Pretrial Management Conference.
- H. A completed Witness Information Form.
- I. Any voir dire questions a party seeks to ask during jury selection.
- J. Trial memoranda (optional).

One day's jury fees will be assessed unless the Court is notified of settlement by 2:00 p.m. on the judicial day before trial.

The parties orally request extending the discovery deadlines.

Pursuant to agreement of counsel,

IT IS ORDERED extending the deadline to complete discovery up to and through **July 31, 2014.**

8:28 a.m. Matter concludes.

NOTE: All Court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting the Court (602-372-0762) three (3) court days before the scheduled proceeding.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-051267

03/07/2014

WITNESS INFORMATION FORM

WITNESSES FOR PLAINTIFF(S)

	WITNESS NAME	DIRECT REDIRECT	AND	CROSS
1				
2				
3				
4				
5				
6				

DIRECT, REDIRECT & CROSS TOTAL: _____

WITNESSES FOR DEFENDANT(S)

	WITNESS NAME	DIRECT REDIRECT	AND	CROSS
1				
2				
3				
4				

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-051267

03/07/2014

5			
6			

DIRECT, REDIRECT & CROSS TOTAL: _____

TOTAL WITNESS TIME ESTIMATE: _____

TIME ESTIMATE FOR:	PLAINTIFF		DEFENDANT
OPENING STATEMENT			
CLOSING ARGUMENT	1 st :	2 nd :	

Effective April 15, 2014 new civil rules and forms are in effect for managing cases moving to trial. Be sure to review the new Civil Rules 16, 26, 37, 38, 72 through 74 and 77.